

U.S. Department
of Transportation

Federal Aviation
Administration

Exemption No. 6632
Regulatory Docket No. 28858

May 30, 1997

Mr. Penn R. Stohr
Senior Vice President of Operations
Evergreen International Airlines, Inc.
3850 Three Mile Lane
McMinnville, OR 97128-9496

Dear Mr. Stohr:

By letter dated March 10, 1997, you petitioned the Federal Aviation Administration (FAA) on behalf of Evergreen Air Venture Museum (Evergreen) for an exemption from Sections 91.315, 119.5(g), and 119.21(a) of Title 14, Code of Federal Regulations (14 CFR) to the extent necessary to permit Evergreen to operate its former military Boeing B-17G aircraft (B-17G), which has a limited category airworthiness certificate, for the purpose of carrying passengers on local flights in return for receiving donations.

The FAA issued grants of exemption in circumstances similar in all material respects to those presented in your petition. In Grant of Exemption Nos. 6540, 6541, and 6565 (copies enclosed), the FAA found that preservation of U.S. aviation history is in the public interest, just as preserving historic buildings, landmarks, and neighborhoods has been determined to be in the public interest. While aviation history can be represented in static display in museums the same way in which historic landmarks can be represented in museums, the public has shown support and a desire to have these World War II vintage airplanes maintained and operated to allow them to experience flight in these historic airplanes.

The FAA also recognized that the only way to maintain vintage World War II airplanes in an operational status is to accept financial contributions to defray the high costs of maintaining those aircraft and ensuring crew operating experience. In return, paying members of the public receive a local flight. Without this incentive, it is reasonable to conclude that operators of these aircraft would not be able to raise sufficient funds to maintain the aircraft and provide this flying experience to the public.

The FAA noted that those individuals who choose to accept rides on these airplanes are not similar to the general traveling public. For the most part, the "paying" passengers on Evergreen's airplanes are contributing members to its organization. These passengers have made the decision to support the continued operation of these historic airplanes through a substantial monetary donation. These passengers are familiar with the airplane's military history and are aware that it is not a standard category aircraft. Unlike passengers who purchase tickets and travel on any aircraft that happens to be provided by an airline, these passengers are solely and specifically seeking the experience of flying on these historic airplanes.

Because former military aircraft can present significant safety matters such as life-limited parts and aircraft design, certain conditions and limitations have been attached to this and previously issued exemptions regarding the maintenance of and inspections for the airplane when it is operated under the authority of this exemption. Similarly, all flight crewmembers are required to meet stringent qualification and training requirements; therefore, the FAA has attached conditions and limitations to this and previously issued exemptions to ensure that Evergreen is maintaining a highly skilled and qualified cadre of pilots to operate its airplane.

Finally, the FAA has initiated rulemaking to allow operators of U.S. vintage, former military aircraft to provide rides to the public for compensation or hire. The FAA believes that if these operations conform to rules that are similar to the conditions and limitations contained herein, there will be an adequate degree of safety for the public to have opportunities to experience flight in U.S. World War II vintage military aircraft.

Having reviewed your reasons for requesting an exemption, I find that they do not differ materially from those presented by the petitioners in the enclosed grants of exemption. In addition, I have determined that the reasons stated by the FAA for granting the enclosed exemptions also apply to the situation you present. However, regarding Evergreen's request to operate its B-17G in basic visual flight rule weather conditions in lieu of meeting the 2,000-foot ceiling and 5-statute-mile visibility requirements as specified in previous grants of exemption, the FAA finds that the conditions and limitations established in this and previous grants of exemption are necessary to ensure safety is not adversely affected. Therefore, the FAA is including the 2,000-foot ceiling and 5-statute-mile visibility requirement in this exemption.

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. Sections 40113 and 44701 delegated to me by the Administrator (14 CFR Section 11.53), Evergreen Air Venture Museum is granted an exemption from 14 CFR

Sections 91.315, 119.5(g), and 119.21(a) to the extent necessary to operate its former military Boeing B-17G aircraft, which has a limited category airworthiness certificate, for the purpose of carrying passengers on local flights in return for receiving donations, subject to the following conditions and limitations:

1. Evergreen must continue to maintain its B-17G in accordance with --
 - (a) The maintenance requirements specified in its B-17G's type specification sheet, as amended;
 - (b) An inspection program that meets the requirements of Section 91.409; and
 - (c) Appropriate military technical manuals for the B-17G.
2. The pilot in command must --
 - (a) Hold at least a commercial pilot certificate with a multiengine airplane rating, an airplane instrument rating, and a B-17G type rating;
 - (b) Have completed B-17G qualification and recurrent flight and ground training within the previous 12 calendar months;
 - (c) Have the following flight experience:
 - (1) At least a total of 2,500 hours of aeronautical flight experience, including 1,000 hours in multiengine airplanes, of which at least 25 hours must be in a B-17G; or
 - (2) At least a total of 1,000 hours of aeronautical flight experience, including 200 hours in multiengine airplanes, of which at least 100 hours and 50 takeoffs and 50 landings must be performed in a B-17G; and
 - (d) Have accomplished three takeoffs and three landings to a full stop in a B-17G within the previous 90 days prior to serving as a pilot in command.
3. The second in command must --
 - (a) Hold at least a commercial pilot certificate with a multiengine airplane rating and an airplane instrument rating;
 - (b) Have completed B-17G qualification and recurrent

flight and ground training within the previous 12 calendar months;

- (c) Have the following flight experience:
 - (1) At least a total of 1,500 hours of aeronautical flight experience, including 250 hours in multiengine airplanes; or
 - (2) At least a total of 500 hours of aeronautical flight experience, including 100 hours in multiengine airplanes, of which at least 25 hours and 10 takeoffs and 10 landings must be performed in a B-17G; and
- (d) Have accomplished three takeoffs and three landings to a full stop in a B-17G within the previous 90 days prior to serving as a second in command.

4. All flight operations shall be conducted --

- (a) At a minimum operating altitude of not less than 1,000 feet above ground level (AGL), except when necessary for takeoff or landing;
- (b) Between the hours of official sunrise and sunset, as established in the American Air Almanac, as converted to local time;
- (c) With a minimum flight visibility of not less than 5 statute miles;
- (d) With a minimum ceiling of not less than 2,000 feet AGL; and
- (e) Within a 50-nautical-mile radius of the departure airport, and the only permitted landing must be at that departure airport.

5. Except for essential crewmembers who are not considered passengers, all flight operations shall carry no more than the maximum number of passengers permitted by the --

- (a) Aircraft's weight and balance limitations; or
- (b) Number of approved seats in the aircraft, whichever is fewer.

6. Except as provided in Condition No. 7, Evergreen's airplanes must have the equipment listed in Section 91.205(b) (minus the equipment listed in paragraph (b)(15) of that section), and that equipment must be in

an operable condition during the flight.

7. Evergreen's airplanes must have the equipment listed in Section 91.205(b)(11), and that equipment must be in an operable condition during the flight if the airplane is to be operated over water and beyond the power-off gliding distance from shore.
8. Evergreen shall have the services of an FAA-certificated airframe and powerplant mechanic available, or an appropriately rated repair station, at all stopovers to perform all required maintenance inspections and repairs.
9. Evergreen will maintain the following records and will make those records available for review to the FAA when requested --
 - (a) The name of each pilot crewmember that Evergreen authorizes to conduct flight operations in its B-17G, under the terms of this exemption;
 - (b) Copies of each pilot crewmember's pilot certificate, medical certificate, qualifications, and recurrent training documentation in the B-17G, for the purpose of showing compliance with Condition Nos. 2 and 3;
 - (c) Records of maintenance performed and maintenance inspection records for the purpose of showing compliance with Condition No. 1; and
 - (d) A listing of any incident, accident, and mechanical failure of the airframe, propellers, and engine that occurred during operations conducted under the authority of this exemption. That listing will include the date of the incident/accident/failure, all information on the possible cause factors, and the extent of injuries sustained.
10. Before permitting a person to be carried on board its B-17G for the purposes authorized under this grant of exemption, Evergreen will inform that person that its B-17G holds only a limited airworthiness certificate, the significance of a limited airworthiness certificate as compared with a standard airworthiness certificate, and that the FAA has authorized this flight under a grant of exemption from the requirements of Sections 91.315, 119.5(g), and 119.21(a). The explanation of the significance of a limited airworthiness certificate as compared with a standard airworthiness certificate must include at least the following information:

- (a) That the FAA has not established nor has it approved the standards under which a limited category airworthiness certificated aircraft was built. In contrast, standard category airworthiness certificated aircraft are built to FAA-approved standards, including standards concerning the design of the aircraft and standards about life-limited parts.
- (b) Limited category airworthiness certificated aircraft are issued when the FAA finds the aircraft:
 - (1) Previously has been issued a limited category type certificate, and the aircraft conforms to that type certificate; and
 - (2) To be in a good state of preservation and repair and in a safe operating condition.
- (c) Standard category airworthiness certificates are issued for an aircraft when the FAA finds the:
 - (1) Aircraft has been built in accordance with that aircraft's type certification standards as established by the FAA;
 - (2) Aircraft has been maintained in accordance with that aircraft's type certification standards as established by the FAA; and
 - (3) Aircraft's inspection and maintenance requirements are in compliance with the applicable Federal Aviation Regulations.

- 11. Evergreen must hold and continue to hold a determination from the U.S. Internal Revenue Service as a Section 501(c)(3) nonprofit, tax-exempt, charitable organization under Sections 509(a)(1) and 170(b)(1)(A)(vi) of the Internal Revenue Code.

This exemption terminates on May 31, 1999, unless sooner superseded or rescinded.

Sincerely,

/s/ Dave E. Hanley
Acting Deputy Director, Flight Standards Service

Enclosures